

**H.C.R. 84** (Jones of Harris) Granting Beacon National Insurance Company and First Preferred Insurance Company permission to sue the State of Texas.  
(vv)

**BILLS REMOVED FROM  
LOCAL AND UNCONTESTED BILLS CALENDAR**

Bill No.	Senators Objecting
<b>S.B. 410</b>	Mauzy, Jones of Harris
<b>S.B. 473</b>	Mauzy, Jones of Harris
<b>S.B. 1273</b>	Mauzy, Jones of Harris
<b>S.B. 1291</b>	Mauzy, Jones of Harris
<b>C.S.S.B. 1293</b>	Mauzy, Jones of Harris
<b>H.B. 938</b>	Mauzy, Jones of Harris
<b>H.B. 1056</b>	Mauzy, Jones of Harris
<b>H.B. 1230</b>	Mauzy, Jones of Harris
<b>H.B. 1628</b>	Mauzy, Jones of Harris
<b>H.B. 1733</b>	Mauzy, Jones of Harris
<b>H.B. 1808</b>	Mauzy, Jones of Harris
<b>H.B. 1876</b>	Mauzy, Jones of Taylor
<b>H.B. 1974</b>	Mauzy, Jones of Harris
<b>H.B. 2167</b>	Mauzy, Jones of Harris

**CONCLUSION OF SESSION FOR  
LOCAL AND UNCONTESTED BILLS CALENDAR**

The Presiding Officer (Senator Jones of Harris in Chair) announced that the session for the consideration of the Local and Uncontested Bills Calendar was concluded.

**ADJOURNMENT**

On motion of Senator Moore the Senate at 9:31 o'clock a.m. adjourned until 10:30 o'clock a.m. today.

**SEVENTY-THIRD DAY  
(Thursday, May 17, 1979)**

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Valc, Williams.

A quorum was announced present.

Chaplain Gerald Mann, University Baptist Church, Austin, offered the invocation as follows:

Our Father, remind us that from here on in, it's the attitude, not the aptitude, that will determine the altitude of this Senate's accomplishments. Amen.

On motion of Senator Moore and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

### MESSAGE FROM THE HOUSE

House Chamber  
May 17, 1979

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

**S.B. 125** Relating to the operation of the Texas Turnpike Authority. (With amendment)

**S.B. 486** Relating to regulation of persons who engage in structural pest control. (With amendments)

**S.B. 551** Relating to regulation of architects and landscape architects; providing penalties. (With amendment)

**S.B. 482** Relating to regulation of barbers. (With amendments)

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

### REPORTS OF STANDING COMMITTEES

Senator Brooks submitted the following report for the Committee on Human Resources:

**H.B. 1714**

**S.B. 911**

**H.B. 2080**

**H.B. 1773**

**C.S.S.B. 85** (Read first time)

Senator Creighton submitted the following report for the Committee on Economic Development:

**H.B. 792**  
**H.B. 2040**  
**H.B. 1957**  
**H.B. 1863**  
**H.B. 1777**  
**C.S.H.B. 1484** (Read first time)  
**C.S.H.B. 1161** (Read first time)

#### **SENATE BILL AND RESOLUTION ON FIRST READING**

On motion of Senator Howard and by unanimous consent, the following bill and resolution were introduced, read first time and referred to the Committee indicated:

**S.B. 1321** by Price Natural Resources  
Relating to the creation, purposes, powers, duties, operation, expansion, and financing of water import authorities; providing a penalty.

**S.C.R. 89** by Howard Administration  
Creating a special interim committee to study the problems of rural industrial development.

#### **HOUSE BILLS ON FIRST READING**

The following bills received from the House were read the first time and referred to the Committee indicated:

**H.B. 2205**, To Committee on Natural Resources.  
**H.B. 2184**, To Committee on Intergovernmental Relations.

#### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1418 ADOPTED**

Senator Short called from the President's table the Conference Committee Report on **H.B. 1418**. (The Conference Committee Report having been filed with the Senate and read on Wednesday, May 16, 1979.)

On motion of Senator Short, the Conference Committee Report was adopted by the following vote: Yeas 28, Nays 0.

Absent: Andujar, Santiesteban, Vale.

#### **COMMITTEE SUBSTITUTE SENATE BILL 563 ON SECOND READING**

On motion of Senator Blake and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 563**, Making appropriations to pay the additional cost of purchased utilities at certain institutions of higher education.

The bill was read second time and was passed to engrossment.

**COMMITTEE SUBSTITUTE SENATE BILL 563  
ON THIRD READING**

Senator Blake moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 563** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Parker, Santiesteban.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**HOUSE BILL 504 ON SECOND READING**

Senator Longoria moved to suspend the regular order of business to take up for consideration at this time:

**H.B. 504**, Relating to taxation of dance halls, night clubs, and like places of amusement.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Price, Santiesteban, Schwartz, Short, Traeger, Truan, Vale.

Nays: Blake, Howard, Patman, Snelson, Williams.

The bill was read second time and was passed to third reading.

**RECORD OF VOTE**

Senator Howard asked to be recorded as voting "Nay" on the passage of the bill to third reading.

(Senator Parker in Chair)

**HOUSE BILL 504 ON THIRD READING**

Senator Longoria moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 504** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Price, Santiesteban, Schwartz, Short, Traeger, Truan, Vale.

Nays: Blake, Howard, Patman, Snelson, Williams.

The bill was read third time and was passed.

### RECORD OF VOTES

Senators Blake, Howard, Patman, Snelson and Williams asked to be recorded as voting "Nay" on the final passage of the bill.

### HOUSE BILL 329 ON SECOND READING

On motion of Senator Farabee and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 329**, Relating to the clarification, revision, and amendment of the Texas Probate Code and the amendment of certain other statutes that relate to probate.

The bill was read second time.

Senator Farabee offered the following committee amendment to the bill:

Amend H.B. No. 329 by striking the first sentence in Subsection (a) of Section 149B in Section 18 of the bill and substituting the following:

In addition to or in lieu of the right to an accounting provided by Section 149A of this code, at any time after the expiration of 12 months after all estate and all inheritance taxes are paid or three years from the date that an independent administration was created and the order appointing an independent executor was entered, whichever date is later, a person interested in the estate may petition the court for an accounting and distribution.

The committee amendment was read and was adopted.

Senator Farabee offered the following committee amendment to the bill:

Amend H.B. No. 329 by striking Subsection (a) of Section 5A in Section 3 of the bill and substituting the following:

(a) In proceedings in the constitutional county courts and statutory county courts at law, the phrases "appertaining to estates" and "incident to an estate" in this Code include the probate of wills, the issuance of letters testamentary and of administration, the determination of heirship, and also include, but are not limited to, all claims by or against an estate, all actions for trial of title to land incident to an estate and for the enforcement of liens thereon incident to an estate, all actions for trial of the right of property incident to an estate, and actions to construe wills, and generally all matters relating to the settlement, partition, and distribution of estates of wards and deceased persons.

The committee amendment was read and was adopted.

Senator Farabee offered the following committee amendment to the bill:

Amend **H.B. 329** by striking Sec. 440 in Section 31 of the bill and substituting the following:

Sec. 440. EFFECT OF WRITTEN NOTICE TO OR DECEDENT'S WILL ON FINANCIAL INSTITUTION. The provisions of Section 439 of this code as to rights of survivorship are determined by the form of the account at the death of a party. Notwithstanding any other provision of the law, this form may be altered in the following ways:

(a) This form may be altered by written order given by a party to the financial institution to change the form of the account or to stop or vary payment under the terms of the account. The order or request must be signed by a party, received by the financial institution during the party's lifetime, and not countermanded by other written order during his lifetime.

(b) This form may be altered by a provision in the decedent's will or codicil thereto which directs the financial institution to change the form of the account or to stop or vary payment under the terms of the account. Any such provision in a decedent's will may refer to any specific account or accounts or it may refer simply to any such account or accounts as may exist as of the date of death of the decedent without specific identification as to the account or accounts or the financial institution in which same is located. The decedent's will or codicil thereto containing such a provision may be dated prior to, simultaneous with, or dated after the creation of any such account or accounts. Any such account or accounts so effected shall be paid over in accordance with the directions contained in any such provision.

(c) This form may be altered by a provision in a decedent's will or codicil thereto, whether same be dated prior to, simultaneous with, or dated after the creation of any such account or accounts, either by itself or contained within the language of another provision, which gives, devises, and bequeaths any property which the decedent has the right to dispose of at the time of death. Any such account or accounts so affected shall be paid over in accordance with the disposition set forth in any such provision.

In the event a conflict between (b) and (a) exists, the provisions of (b) as set forth above shall control. In the event a conflict between (c) and (a) exists, the provisions of (c) shall control. In the event a conflict between (b) and (c) exists and the conflict was created by a codicil or codicils to decedent's will, the provisions of the codicil bearing the most recent date shall control solely to the extent of the conflict and then the inconsistent provision shall be implemented. And, in the event a conflict between (b) and (c) exists and both provisions are in the decedent's will or both provisions are in the same codicil then the provisions of (b) will control solely to the extent of the conflict and then the provisions of (c) shall be implemented.

The committee amendment was read.

On motion of Senator Farabee and by unanimous consent, the committee amendment was withdrawn.

Senator Farabee offered the following committee amendment to the bill:

Amend **H.B. 329** by adding a new Section 6 to Art. 1994 of Section 33 to read as follows:

6. If not otherwise invested in the manner provided in this article, the Judge of the Court in which the judgment is rendered upon application of the next friend or a duly appointed Guardian ad Litem for the minor, or either or both of them, after hearing and upon a finding that the best interests of the minor would be served thereby, may by decree entered of record direct the clerk to deliver any funds accruing under such judgment to any trust company or state or national bank in Texas having trust powers, as Trustee, to be held and

invested as a trust estate for the benefit of such minor, under such terms and provisions of trust as may be provided by the court; provided, however, that any decree establishing such a trust estate shall contain the following trust provisions, in addition to such other terms, provisions, conditions or limitations not inconsistent therewith as may be established by the court:

- (a) The minor shall be the sole beneficiary of such trust.
- (b) The Trustee shall be authorized to disburse such amounts of the corpus, income, or both, of the trust as may be reasonably necessary in the sole discretion of the trustee to provide for the health, education, support or maintenance of the beneficiary. Any income not so distributed by the trustee shall be added to the corpus of the trust.
- (c) The trust shall provide for termination of the trust upon the death of the beneficiary or upon the beneficiary attaining a stated age, which shall not exceed 25 years of age. Upon termination, the then existing trust principal and any undistributed income shall be paid to the beneficiary or to the personal representative of the estate of a deceased beneficiary.
- (d) The trust shall provide that the Trustee serve without bond and that the Trustee receive reasonable compensation, to be paid out of the income or corpus of the trust, or both, upon application and approval of the Court.

Any trust established by the Court pursuant to this article may provide for distributions of a stated percentage of the then existing trust corpus prior to termination of the trust, as the beneficiary from time to time attains a particular stated age, and may also provide that all distributions and all uses and applications of trust funds, either income or corpus, may be made directly to or expended for the benefit of the beneficiary without the intervention of any legal guardian or other legal representative, and that the Trustee may pay any income or principal distribution to or for the benefit of a beneficiary directly to such beneficiary; to the legal or natural guardian or person having custody of such beneficiary; or directly for the maintenance or support of such beneficiary. Any trust established by the Court pursuant to this article shall not be subject to revocation by the beneficiary or any guardian of the beneficiary's estate, but shall remain subject to amendment, modification or revocation by the Court at any time prior to termination of the trust. If any trust established hereunder is revoked by the Court prior to the beneficiary attaining the age of 18, the Court may enter such further or additional orders concerning the trust corpus and any undistributed income as may be authorized by this article. If any trust established hereunder is revoked by the Court after the beneficiary has attained the age of 18, after payment of all proper and necessary expenses, the trust corpus and any undistributed income shall be delivered to the beneficiary. Any trust established pursuant to this article shall take precedence over any existing law or statute concerning minors or their property, and such trust shall continue in full force and effect until terminated or revoked notwithstanding the appointment of a guardian of the estate for such minor or such minor attaining his majority.

The committee amendment was read and was adopted.

Senator Farabee offered the following committee amendment to the bill:

Amend Section 1 of **H.B. 329** to read as follows:

Section 1. Section 3, Texas Probate Code, as amended is amended by adding Subsection (ii) and (jj) to read as follows:

(ii) "Statutory probate court" refers to any statutory court presently in existence or created after the passage of this Act, the jurisdiction of which is limited by statute to the general jurisdiction of a probate court, and such courts whose statutorily designated name contains the word "probate". County courts at law exercising probate jurisdiction are not statutory probate courts under this Code unless their statutorily designated name includes the word "probate".

(jj) "Next of kin" includes an adopted child or his or her descendants and the adoptive parent of the adopted child.

The committee amendment was read and was adopted.

Senator Farabee offered the following amendment to the bill:

Amend **H.B. 329**, Section 15, in the following manner:

- (1) at page 11, lines 29 & 30:  
Strike "~~in an amount, not exceeding Three Thousand Dollars~~" and substitute therefor "in an amount, not exceeding Ten Thousand Dollars"; and
- (2) at page 12, lines 5 & 6:  
Strike "~~and not exceeding the sum of One Thousand Dollars (\$1,000)~~" and substitute therefor "and not exceeding the sum of Ten Thousand Dollars"

The amendment was read and was adopted.

On motion of Senator Farabee and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

### HOUSE BILL 329 ON THIRD READING

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 329** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed.

### HOUSE BILL 283 ON SECOND READING

Senator Moore moved to suspend the regular order of business to take up for consideration at this time:

**H.B. 283**, Relating to bonds required by certain counties for the construction of streets and roads in subdivisions; amending Section 3, Chapter 436, Acts of the 55th Legislature, Regular Session, 1957 (Article 6626a, Vernon's Texas Civil Statutes).

The motion prevailed by the following vote: Yeas 30, Nays 1.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.



Nays: Mauzy.

The bill was read second time and was passed to third reading.

#### **HOUSE BILL 283 ON THIRD READING**

Senator Moore moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 283** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

#### **HOUSE JOINT RESOLUTION 98 ON SECOND READING**

On motion of Senator Schwartz and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.J.R. 98**, Proposing a constitutional amendment to require a single appraisal and a single board of equalization within each county for ad valorem tax purposes.

The resolution was read second time.

Senator Jones of Taylor offered the following amendment to the resolution:

Amend H.J.R. No. 98 by relettering Subsections (c) and (d) of Section 18, Article VIII, of the constitution, as amended by Section 1 of the resolution, as Subsections (d) and (e) and by adding a new Subsection (c) to read as follows:

(c) The legislature, by general law, shall require that each appraisal entity reappraise all real property within its boundaries at least once in each five-year period.

The amendment was read and was adopted.

On motion of Senator Schwartz and by unanimous consent, the caption was amended to conform to the body of the resolution as amended.

The resolution as amended was passed to third reading.

#### **HOUSE JOINT RESOLUTION 98 ON THIRD READING**

Senator Schwartz moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.J.R. 98** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The resolution was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 686 ON SECOND READING**

On motion of Senator Traeger and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 686**, Relating to establishment of the Laredo State Center for Human Development.

The bill was read second time and was passed to third reading.

**HOUSE BILL 686 ON THIRD READING**

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 686** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 1368 ON SECOND READING**

On motion of Senator Schwartz and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1368**, Relating to uranium surface mining and reclamation.

The bill was read second time and was passed to third reading.

**HOUSE BILL 1368 ON THIRD READING**

Senator Schwartz moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1368** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 1692 ON SECOND READING**

On motion of Senator Snelson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1692**, Relating to the appointment of county auditors in certain counties.

The bill was read second time and was passed to third reading.

**HOUSE BILL 1692 ON THIRD READING**

Senator Snelson moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1692** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 1510 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1510**, Relating to the use of unmanned teller machines by certain financial institutions; providing a penalty.

The bill was read second time and was passed to third reading.

**HOUSE BILL 1510 ON THIRD READING**

Senator Harris moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1510** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed.

(President in Chair)

**MOTION TO PLACE HOUSE BILL 442 ON SECOND READING**

Senator Andujar moved to suspend the regular order of business to take up for consideration at this time:

**H.B. 442**, Relating to the civil service system in certain counties.

The motion was lost by the following vote (Not receiving two-thirds vote of the Members of the Senate present): Yeas 16, Nays 11.

Yeas: Andujar, Blake, Creighton, Harris, Howard, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Snelson, Traeger.

Nays: Braecklein, Brooks, Clower, Doggett, Jones of Harris, Mauzy, Patman, Short, Truan, Vale, Williams.

Absent: Farabee, Jones of Taylor, Parker, Schwartz.

**CONSIDERATION OF NOMINATIONS**

The President announced that the time had arrived for the Senate to consider the nominations to agencies, boards and commissions. (Notice of submission of these names having been given by Senator McKnight yesterday.)

**EXECUTIVE SESSION**

On motion of Senator McKnight and by unanimous consent, the Senate agreed to meet in Executive Session to consider nominations.

Accordingly, the President at 11:35 o'clock a.m. directed all those not entitled to attend the Executive Session of the Senate to retire from the Senate Chamber and instructed the Sergeant-at-Arms to close all doors leading from the Chamber.

**IN LEGISLATIVE SESSION**

At the conclusion of the Executive Session, the President called the Senate to order as In Legislative Session at 11:55 o'clock a.m. today.

**REPORT OF STANDING COMMITTEE**

Senator McKnight submitted the following report for the Committee on Nominations:

TO THE SENATE OF THE SIXTY-SIXTH LEGISLATURE, REGULAR SESSION:

We, your Subcommittee on Nominations, to which were referred the attached appointments, have had same under consideration, and beg to report them back to the Senate for final consideration.

To be Members of the BOARD OF REGENTS, NORTH TEXAS STATE UNIVERSITY: Winfree L. Brown, Midland County; Harold E. Chiles, Tarrant County

To be a Member and Chairman of the INDUSTRIAL ACCIDENT BOARD: Herbert Snow Harris, Jr., Midland County.

To be a Member of the PARKS AND WILDLIFE COMMISSION: William Byron Osborn, Jr., Starr County.

To be a Member of the TEXAS DEEPWATER PORT AUTHORITY: Rai Benson Kelso, Galveston County.

To be a Member of the BOARD OF DIRECTORS, TRINITY RIVER AUTHORITY: John G. Middleton, Chambers County.

To be Members of the STATE BOARD OF DENTAL EXAMINERS: William Richard Knight, Jr., D.D.S., Dallas County; Neil A. Morgan, D.D.S., Bexar County; John D. Wilbanks, D.D.S., El Paso County.

To be a Member of the TEXAS COMMISSION ON THE ARTS AND HUMANITIES: Mrs. Margot Birmingham Perot, Dallas County.

To be a Member of the TEXAS SURPLUS PROPERTY AGENCY: A. Max Scheid, Dallas County.

To be a Member of the TEXAS CLOSEUP BOARD: Mark Dennis Davidson, Harris County.

To be a Member of the TEXAS AMUSEMENT MACHINE COMMISSION: Jose M. Blanco, Jr., Wharton County.

To be Members of the COMMISSION ON JAIL STANDARDS: Sheriff Jack Heard, Harris County; Dallas L. Smith, Jr., Midland County.

To be Members of the TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS: Mrs. Dorn W. Long, Collin County; Rex L. Nutt, Harris County; Thomas Koller Waugh, El Paso County.

To be a Member of the BOARD OF DIRECTORS, NUECES RIVER AUTHORITY: Gene Garrison, Jim Wells County.

To be Members of the SCHOOL TAX ASSESSMENT PRACTICES BOARD: William Benjamin Munson IV, Grayson County; Stephen T. Jordan, Dallas County.

To be Members of the TEXAS STATE BOARD OF EXAMINERS IN SOCIAL PSYCHOTHERAPY: Ms. Eilene F. Crosier, Comal County; Hilton John Shepherd, Ph.D., Tarrant County.

To be a Member of the BOARD OF DIRECTORS, BRAZOS RIVER AUTHORITY: D. J. "Jack" McCarty, Somervell County.

To be a Member of the PILOT COMMISSION FOR THE SABINE BAR, PASS AND TRIBUTARIES: J. Lynn Harden, Jefferson County.

Senator McKnight moved confirmation of the nominees reported by the Subcommittee on Nominations.

The President asked if there were requests to sever nominees.

Senator Parker requested that Mr. Harrel E. Chiles, to be a Member of the Board of Regents of North Texas State University, be severed.

The request was granted.

#### **NOMINEES CONFIRMED**

The nominees not severed and as reported by the Subcommittee on Nominations were confirmed by the following vote: Yeas 31, Nays 0.

Senator Parker moved that consideration of Mr. Chiles' nomination be postponed until Thursday, May 24, 1979.

The motion prevailed by the following vote: Yeas 17, Nays 9.

Yeas: Blake, Braecklein, Brooks, Clower, Doggett, Jones of Harris, Kothmann, Longoria, Mauzy, McKnight, Parker, Santiesteban, Short, Tracger, Truan, Vale, Williams.

Nays: Andujar, Harris, Howard, Mcier, Mengden, Ogg, Patman, Price, Snelson.

Absent: Creighton, Farabee, Jones of Taylor, Moore, Schwartz.

**SENATE BILL 910 WITH HOUSE AMENDMENTS**

Senator McKnight called **S.B. 910** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment No. 1 - Craddick

Substitute the following for S.B. No. 910:

**A BILL TO BE ENTITLED  
AN ACT**

relating to the regulation of permanent storage or disposal of radioactive materials.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1.** Section 4(d), Chapter 72, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 4590f, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) The Agency shall for the protection of the occupational and public health and safety:

(1) Develop programs for evaluation of hazards associated with use of sources of radiation;

(2) Develop programs with due regard for compatibility with federal programs for regulation of sources of radiation;

(3) Formulate, adopt, promulgate and repeal codes, rules and regulations, which may provide for licensing and registration, relating to control of sources of radiation with due regard for compatibility with the regulatory programs of the Federal Government. Rules and regulations shall not become effective until ninety (90) days after adoption by the State Radiation Control Agency;

(4) Issue such orders of modifications thereof as may be necessary in connection with proceedings under Section 6 of this Act;

(5) Advise, consult, and cooperate with other agencies of the state, the Federal Government, other states and interstate agencies, political subdivisions, and with groups concerned with control of sources of radiation;

(6) Have the authority to accept and administer loans, grants or other funds or gifts, conditional or otherwise, in furtherance of its functions, from the Federal Government and from other sources, public or private;

(7) Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to control of sources of radiation; ~~and~~

(8) Collect and disseminate information relating to control of sources of radiation, including:

**A [a].** Maintenance of a file of all license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions and revocations;

**B [b].** Maintenance of a file of registrants possessing sources of radiation requiring registration under the provisions of this Act and any administrative or judicial action pertaining thereto; and

**C [c].** Maintenance of a file of all rules and regulations relating to regulation of sources of radiation, pending or promulgated, and proceedings thereon;

**(9)** Have the authority to acquire, by purchase or gift, fee simple title in any lands, buildings, or grounds where radioactive materials produced by industrial, medical, agricultural, scientific, or other organization are being or can be concentrated, stored, or otherwise disposed in a manner consistent with the public health and safety. Property acquired pursuant to this Section shall be

dedicated to such purpose until the Agency determines that other uses would not endanger the health, safety, or general welfare of the public. All rights, title, and interest in, of, and to radioactive materials accepted by the Agency for storage or disposal at such facilities shall, upon acceptance, become the property of the state and shall be administered, controlled, and otherwise disposed of by the Agency in the name of this state;

(10) Have the authority to lease properties acquired pursuant to this Section to a private firm or firms for the purpose of operating such sites for the concentration, storage, or disposal of radioactive materials or for any other purpose not contrary to the public interests or state law. Such site operation shall be under the direct supervision of the Agency and shall be in accordance with regulations promulgated and enforced by the Agency; and

(11) Administer the Radiation and Perpetual Care Fund in accordance with Sections 6 and 15A of this Act.

SECTION 2. Section 6, Chapter 72, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 4590f, Vernon's Texas Civil Statutes), is amended by adding Subsections (c)-(m) to read as follows:

(e) Each licensee, as a condition of its license, shall:

(1) Arrange for and pay all of the costs of management, control, stabilization, and disposal of radioactive materials and for the decommissioning of the licensed activity;

(2) Before the termination of all licensed activities, convey to this state all right, title, and interest held by the licensee to the lands, buildings, and grounds designated as sites for the concentration, storage, or disposal of radioactive materials resulting from the licensed activity pursuant to Section 4 of this Act, together with requisite rights of ingress and egress, and all rights, title, and interest in, of, and to all radioactive materials situated on such properties or, at the election of the licensee, to otherwise make safe or dispose of any radioactive materials in its possession on the termination of all licensed activities in accordance with the regulations of the Agency.

(f) Each applicant for a license or any renewal of a license shall demonstrate and the Agency shall, prior to issuance of any license or renewal of a license, find that such applicant is financially qualified to conduct the licensed activity, including any required decommissioning and disposal of radioactive material. The licensee shall submit to the Agency current proof of its financial qualifications at such intervals as the Agency may by regulation or license require.

(g) Each licensee shall post financial security acceptable to the Agency to assure performance by the licensee of its obligations under this Act. Such acceptable financial security may include one or more of the following:

(1) A bond executed by a surety company or companies authorized to do business in this state which shall not be terminable during the term of the license;

(2) A letter of credit issued by a financial institution authorized to do business in this state;

(3) A cash bond; or

(4) The guarantee of a licensee whose financial qualifications meet the requirements of the Agency or who furnishes collateral satisfactory to the Agency, which collateral may be in the form of a suitable guarantee by any person, if such person has financial qualifications that meet the requirements of the Agency.

(h) The amount of the financial security shall be determined by the Agency in accordance with criteria established by regulation which shall include:

(1) Consideration of the need for and scope of any decommissioning activity reasonably required to protect the health and safety of the public;

(2) Reasonable estimates of the costs of such decommissioning as provided in Section 15A of this Act; and

(3) The net worth of the sum required for the perpetual maintenance and surveillance of any radioactive materials resulting from the licensed activity.

(i) Instead of requiring a licensee to post financial security as provided by Subsection (g) of this Section, the Agency may require a licensee to make annual payments to the Radiation and Perpetual Care Fund to cover the cost of decommissioning activities as computed under Section 15A(e)(2) of this Act.

(j) All sums accrued or paid by a licensee under this Section shall be deposited in the Radiation and Perpetual Care Fund.

(k) Upon the satisfaction by a licensee of all of its obligations under Subsection (e) of this Section, the financial security furnished under this Section shall be released.

(l) All money received by the Agency as a result of any forfeiture or enforcement of any financial security furnished pursuant to this Section shall be deposited in the Radiation and Perpetual Care Fund.

(m) The Agency may prescribe and collect a fee for each license for concentration, storage, or disposal of radioactive materials in amounts as may be necessary to cover the reasonable expenses incurred by the Agency in processing the licensee's application and enforcing the Agency's regulations for the duration of the license granted, but the license fee may not exceed the fee charged by the United States Nuclear Regulatory Commission or its successor for licenses of similar nature and scope during the time period in which the license is effective.

SECTION 3. Chapter 72, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 4590f, Vernon's Texas Civil Statutes), is amended by adding Section 15A to read as follows:

Sec. 15A. RADIATION AND PERPETUAL CARE FUND. (a) The Radiation and Perpetual Care Fund is established in the State Treasury and may be used for the purpose of carrying out this Section. The Agency shall deposit to the credit of the fund all sums and collateral received by the Agency, except license fees, which shall be deposited to the credit of the General Revenue Fund.

(b) The amounts credited to the Radiation and Perpetual Care Fund shall receive depository interest.

(c) All money and collateral in the fund are appropriated to and may be expended by the Agency as required for the decommissioning, stabilization, maintenance, surveillance, control, storage, or disposal of radioactive materials acquired by the Agency for the protection of the public health and safety pursuant to this Act.

(d) Money and collateral in the fund shall not be used for normal operating expenses of the Agency and are exempt from all provisions relating to lapsing of appropriations.

(e) If there is a possibility that any licensed activity will result in radioactive waste materials which will require maintenance, surveillance, or other care on a continuing or perpetual basis after termination of the licensed activity, the Agency may require the licensee of such activity to pay annually to the Agency for deposit in the Radiation and Perpetual Care Fund, an amount equal to the sum of:

(1) The net worth of the fund required to produce investment earnings sufficient to pay the cost of maintenance and surveillance of the lands, buildings, grounds, and radioactive materials to be conveyed to the state pursuant to this Act, less the net worth of all payments previously made by the licensee to the Agency for such purposes, divided by the number of years the licensed activity is reasonably expected to continue; and



(2) With respect to a waste disposal activity and if required by the Agency under Section 6, (i) of this Act, the cost of any decommissioning activity, estimated as of December 31 of the year preceding each annual payment, less the total of all payments previously made to the agency by the licensee for the decommissioning activity, divided by the number of years the licensed activity is reasonably expected to continue.

(f) Any estimates of costs of activities required to be made pursuant to this Section shall be subject to changes and review by the Agency according to the need, nature, and cost of any decommissioning activity and the maintenance and surveillance of radioactive materials required for public health and safety. Any charges imposed for maintenance and perpetual care shall be established at the lowest level consistent with existing technology. The charges imposed by the Agency may not exceed the estimated sum that is projected by the Agency to be required for the maintenance, surveillance and other necessary care required after termination of the licensed activity. Any change that results in any increase in such costs may not be applied retroactively, but such changes may result in increases in subsequent annual payments.

(g) In computing the new worth of any fund or payments for the purpose of this Section or Section 6 of this Act, the interest rate shall be equal to the average annual rate of investment earnings, including investment appreciation, of the state general fund over the five (5) state fiscal years preceding any net worth determination and the term shall be the number of years the licensed activity is expected to continue after such determination.

(h) At such time as any licensee has satisfied all or part of its obligation under Section 6 of this Act, the Agency shall promptly refund to such licensee from the Radiation and Perpetual Care Fund any excess of the amount of Paragraph (1) of this subsection over the amount of Paragraph (2) of this subsection:

(1) The sum of Subparagraphs (A) and (B) of this paragraph:

(A) All payments made by the licensee to the Agency for deposit into the Radiation and Perpetual Care Fund pursuant to this Act; and

(B) All investment earnings on such payments;

(2) The amount then determined to be required for the continuing maintenance and surveillance of the lands, buildings, grounds, and radioactive materials conveyed to the state pursuant to Section 4 of this Act.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

#### Amendment No. 2 - Martin

Amend **C.S.S.B. 910** by striking all of subsection (i) of Section 2, page 5, lines 20 through 24, and redesignating all following subsections.

Amend **C.S.S.B. 910**, Section 3 (e) (2), page 7, lines 24 and 25 by striking the following language:

"and if required by the Agency under Section 6, (i) of this Act,"

#### Amendment No. 3 - Craddick

Amend CSSB No. 910 by inserting on page 3 a new Sub-section 12.

No site in Texas may accept radioactive materials from another state for disposal.

Amendment, No. 4 - Denton

Amend C.S.S.B. No. 910, Section 3, page 8, by relettering Subsections (f)-(h) in Section 15A as Subdivisions (g)-(i) and inserting the following:

(f) Each biennium the Agency shall review a licensee's payments to the Radiation and Perpetual Care Fund made under Section 15A(e) of this Act to determine if the payment schedule is adequate for the maintenance and surveillance the licensed activity requires or may require in the future.

The amendments were read.

Senator McKnight moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 910** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators McKnight, Chairman; Schwartz, Tracger, Longoria and Blake.

#### **SENATE BILL 817 WITH HOUSE AMENDMENT**

Senator Meier called **S.B. 817** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Ware

Amend **S.B. 817** by adding at the end of Sec. 6(a) of Section 2 the following sentence:

"Provided however, nothing in this Act shall be construed as precluding any resident of the State of Texas from establishing a trust relationship with any state or national bank or trust company whether such state or national bank or trust company is or is not domiciled in the State of Texas."

The amendment was read.

Senator Meier moved to concur in the House amendment.

The motion prevailed.

#### **SENATE RULE 74a SUSPENDED**

On motion of Senator Jones of Harris and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to **S.B. 486**.

**SENATE BILL 486 WITH HOUSE AMENDMENTS**

Senator Jones of Harris called **S.B. 486** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment No. 1 - Lancy

Substitute the following for S.B. No. 486:

A BILL TO BE ENTITLED  
AN ACT

relating to licensing, certification, and regulation of persons who engage in structural pest control; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (b), Section 2, Texas Structural Pest Control Act, as amended (Article 135b-6, Vernon's Texas Civil Statutes), is amended by adding Subdivisions (8) and (9) to read as follows:

(8) "Device" means an instrument or contrivance, except a firearm, that is designed for trapping, destroying, repelling, or mitigating the effects of a pest or another form of plant or animal life, other than human beings or bacteria, viruses, or other microorganisms that live on or in human beings or animals. The term does not include any equipment used for the application of pesticides if the equipment is sold separately from a device as defined in this subdivision.

(9) "Endorsement of license" means an individual who establishes residence in Texas and who has been determined by the board to meet the qualifications of a certified applicator by taking the appropriate examination in a state other than Texas.

SECTION 2. Section 3, Texas Structural Pest Control Act (Article 135b-6, Vernon's Texas Civil Statutes), is amended by amending Subsections (a), (d), and (e) and adding Subsections (f), (g), and (h) to read as follows:

(a) The Texas Structural Pest Control Board is created. The board is composed of nine ~~seven~~ members, six ~~four~~ of whom shall be appointed ~~by the Governor with the advice and consent of the Senate for terms of two years~~. Four of the appointed members must be persons who ~~to be eligible for appointment, a person must~~ have been engaged in the business of structural pest control for at least five years. No two members shall be representatives of the same business entity. Two members must be representatives of the general public who are not licensed under this Act. These appointments to the board shall be made by the Governor with the advice and consent of the Senate for staggered terms of two years. A person is not eligible for appointment to the board if the person has contributed more than \$1,000 on behalf of the political candidacy of the Governor who makes the appointments under this Act. Appointments to the board shall be made without regard to the race, creed, sex, religion, or national origin of the appointees. The failure of an appointed member of the board to attend at least one-half of the regularly scheduled meetings held by the board each year automatically removes the member from the board and creates a vacancy on the board. In addition to the appointed members, the board shall also consist ~~consists~~ of the Commissioner of Agriculture, the Commissioner of Health, and the chairman of the Department of Entomology at Texas A & M University, or their designated representatives ~~who shall serve in ex officio capacity~~.

(d) The board shall appoint an executive director who shall administer the provisions of this Act and the rules and regulations promulgated by the board. The executive director shall receive a salary as determined by the board which

shall be paid from funds available to the board. A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not act as the general counsel to the board or serve as a member of the board.

(e) The Texas Structural Pest Control Board is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the board is abolished, and this Act expires effective September 1, 1991 ~~[1979]~~.

(f) A member of the board or an employee of the board who carries out the functions of the board may not:

(1) be an officer, employee, or paid consultant of a trade association in the structural pest control industry;

(2) be related within the second degree by affinity or within the third degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the structural pest control industry; or

(3) communicate directly or indirectly with a party or the party's representative to a proceeding pending before the board unless notice and an opportunity to participate are given to all parties to the proceeding, if the member or employee is assigned to make a decision, a finding of fact, or a conclusion of law in the proceeding.

(g) A member of the board, except those members who are duly licensed structural pest control operators, may not have personally, nor be related to persons within the second degree by affinity or third degree by consanguinity who have, except as consumers, financial interests in structural pest control businesses as officers, directors, partners, owners, employees, attorneys, or paid consultants of the structural pest control business or otherwise.

(h) The board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

SECTION 3. Section 4, Texas Structural Pest Control Act, as amended (Article 135b-6, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and by adding new Subsections (e), (f), (g), (h), (i), (j), and (k) to read as follows:

(a) The board shall develop standards and criteria for licensing individuals engaged in the business of structural pest control. The board may require individuals to pass an examination demonstrating their competence in the field in order to qualify for a Certified Applicator's License. Not later than the 30th day after the day on which a person completes an examination administered by the board, the board shall send to the person his examination results. If requested in writing by a person who fails the examination, the board shall send to the person not later than the 30th day after the day on which the request is received by the board an analysis of the person's performance on the examination.

(e) The board shall coordinate its computer, administrative, and licensing functions with the Department of Agriculture if the board determines that the coordination would result in the more practical and efficient performance of those functions.

(f) The board may not promulgate rules restricting advertising or competitive bidding by licensees except to prohibit false, deceptive, or misleading practices by the licensee.

(g) If a written complaint is filed with the board relating to a licensee under this Act, the board, at least as frequently as quarterly, shall notify the complainant of the status of the complaint until the complaint is finally resolved or until litigation has been initiated. All records of complaints shall be filed in the offices of the board.

(h) The board must within 31 days from the date of filing of the complaint determine whether a hearing shall be held on such complaint or whether such complaint shall be dismissed and shall notify both the person who filed the complaint and the person against whom the complaint has been filed of the board's decision.

(i) If the appropriate standing committees of both houses of the legislature acting under Section 5(g), Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the board statements opposing adoption of a rule under that section, the rule may not take effect or, if the rule has already taken effect, the rule is repealed effective on the date the board receives the committees' statements.

(j) In each written contract in which a licensee under this Act agrees to perform structural pest control services in this State, the licensee shall include the mailing address and telephone number of the board and a statement that the board has jurisdiction over individuals licensed under this Act.

(k) The board shall establish a public information program for the purpose of informing the public about the practice and regulation of structural pest control in this State. As part of the program, the board shall prescribe and distribute in a manner that it considers appropriate a standard complaint form and shall make available to the general public and other appropriate State agencies the information compiled as part of the program. The program shall inform prospective applicants for licensing under this Act about the qualifications and requirements for licensing.

SECTION 4. Section 5, Texas Structural Pest Control Act, as amended (Article 135b-6, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. (a) ~~No [Except as provided in Subsections (b) and (c), no] person,~~ except an individual under the direct supervision of a certified applicator, may engage in the business of structural pest control after the effective date of this Act unless he meets the standards set by the board and possesses a valid Structural Pest Control Business License issued by the board.

(b) ~~[A person who has engaged in the business of structural pest control for a period of two years next preceding the effective date of this Act may apply to the board within 90 days after the effective date of this Act and shall be issued a temporary Structural Pest Control Business License and Certified Applicator's License which shall be valid for a period not to exceed two years upon payment of the required fee and completion of a temporary licensing form as prescribed by the board without further qualifications or examination. All applicants under this subsection shall furnish evidence substantiating their eligibility before temporary licenses may be granted.]~~

~~[(e)]~~ A person without a license may, on his own premises or on the premises of an employer by whom he was hired primarily to perform other services, use insecticides, pesticides, rodenticides, fumigants, or allied chemicals or substances or mechanical devices designed to prevent, control, or eliminate pest infestations unless that use is prohibited by rule of the United States Environmental Protection Agency or unless the substance used is labeled as a restricted-use pesticide or a state-limited-use pesticide.

SECTION 5. Subsections (a) and (b), Section 6, Texas Structural Pest Control Act (Article 135b-6, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) All applications for licenses shall be made on forms prescribed and provided by the board, and each applicant shall furnish such information as the board may require for its determination of the applicant's qualifications. The board shall make public a list of study materials and educational seminars that are available to help applicants successfully complete any examination administered under this Act.

(b) All licenses issued by the board before 1981 shall expire on March 1 of each calendar year. Licenses issued by the board during or after 1981 expire on December 31 of each year or on various dates of the year as the board may determine as part of a staggered license renewal system. The board may issue a license for a period of less than one year if necessary to conform the license to a renewal system authorized by this subsection. If the board issues a license for a period of less than one year, the board shall prorate the fee for the license on a monthly basis. A person ~~and~~ may renew a license ~~be renewed~~ by submitting an application to the board and paying the required renewal fees.

SECTION 6. Section 7, Texas Structural Pest Control Act, as amended (Article 135b-6, Vernon's Texas Civil Statutes), is amended by amending Subsections (a), (b), (c), and (d) to read as follows:

(a) An applicant for an initial or renewal Structural Pest Control Endorsement of License, Business License, or a Certified Applicator's License shall accompany his application with a fee of not more than \$75 ~~[\$50]~~ each, as determined by the board, and a fee of not more than \$20 ~~[between \$5 and \$15]~~, as determined by the board, for each employee of the applicant who is engaged in structural pest control services.

(b) A licensee whose license has been lost or destroyed or whose name has been changed shall be issued a replacement ~~[duplicate]~~ license after application therefor and the payment of a fee set by the board not to exceed \$20 ~~[of \$10]~~.

(c) The board may retroactively grant a Structural Pest Control Business License or a Certified Applicator's License to the applicant for a renewal license if such applicant pays a late renewal fee of \$25 and if his application is filed with the board not more than 30 days after the expiration of his license. If such application is received between 30 and 60 days after the expiration of the applicant's license, the board may retroactively grant the renewal license when said application is accompanied by a renewal fee of \$50. An applicant who applies for a renewal license more than 60 days after the expiration of his license must be reexamined ~~[is subject to re-examination]~~ by the board to obtain a license.

(d) ~~Each [After September 30, 1976, each]~~ time an applicant takes a test for a license, he shall pay the board a testing fee of not more than \$25, as determined by the board, for each test taken.

SECTION 7. Sections 7A and 8, Texas Structural Pest Control Act, as amended (Article 135b-6, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 7A. (a) ~~The [After February 29, 1976, the]~~ board may not issue or renew a Structural Pest Control Business License until the license applicant:

(1) files with the board a policy or contract of insurance, approved~~[-]~~ as sufficient ~~[to sufficiency]~~, by the board, in an amount of not less than \$25,000 in bodily injury coverage and \$5,000 in property damage coverage ~~[\$30,000]~~, insuring him against liability for damages to persons or property occurring as a result of operations performed in the course of the business of structural pest control to premises or any other property under his care, custody, or control; or

(2) files with the board a certificate or other evidence from an insurance company, in the case of an applicant who has an unexpired and uncanceled insurance policy or contract on file with the board, stating that the policy or contract insures the applicant against liability for acts and damage as described in Subdivision (1) of this subsection ~~[section]~~ and that the amount of insurance coverage is not less than \$25,000 in bodily injury coverage and \$5,000 in property damage coverage ~~[\$30,000]~~.

(b) The policy or contract shall be maintained at all times in an amount not less than \$25,000 in bodily injury coverage and \$5,000 in property damage

coverage ~~[\$30,000]~~. Failure to renew the policy or contract or maintain it in the required amount is a ground for suspension or revocation of a Structural Pest Control Business License.

(c) The board by rule may require different amounts of insurance coverage for different classifications of operations under this Act.

Sec. 8. (a) The proceeds from the collection of the fees provided in this Act shall be deposited in a special fund in the State Treasury to be known as the Structural Pest Control Fund, and shall be used for the administration and enforcement of the provisions of this Act. Any balance in the special fund at the end of each State fiscal biennium in excess of appropriations out of that fund for the succeeding biennium shall be transferred to the general revenue fund.

(b) Before September 1 of each year, the board shall file a written report with the legislature and the Governor in which the board accounts for all funds received and disbursed by the board during the preceding year.

(c) The state auditor shall audit the financial transactions of the board during each fiscal year.

SECTION 8. Subsections (a) and (c), Section 10A, Texas Structural Pest Control Act, as added (Article 135b-6, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) A person commits an offense if he:

- (1) violates any section ~~[Section 5]~~ of this Act;
- (2) violates regulations adopted under Section 4 of this Act; or
- (3) intentionally makes a false statement in an application for a license or otherwise fraudulently obtains or attempts to obtain a license.

(c) An offense under this section is a Class C misdemeanor unless the person has been convicted previously of an offense under this section, in which event the offense is a Class B misdemeanor ~~[punishable on conviction by a fine of not less than \$50 nor more than \$200].~~

SECTION 9. The Texas Structural Pest Control Act, as amended (Article 135b-6, Vernon's Texas Civil Statutes), is amended by adding Section 11B to read as follows:

Sec. 11B. The Texas Structural Pest Control Act, as amended (Article 135b-6, Vernon's Texas Civil Statutes), is to be continued in effect as approved and required under the United States Environmental Protection Agency Public Law #92-516 (Federal Insecticide, Fungicide, and Rodenticide Act of October 21, 1972, and subsequently amended).

SECTION 10. Section 6A, Texas Structural Pest Control Act, as added (Article 135b-6, Vernon's Texas Civil Statutes), is repealed.

SECTION 11. (a) A person holding office as a member of the Texas Structural Pest Control Board on the effective date of this Act continues to hold the office for the term for which the person was originally appointed.

(b) After August 30, 1979, the governor shall appoint to the board a consumer member for a term expiring on August 30, 1980 and a consumer member for a term expiring on August 30, 1981. As the terms of the incumbent structural pest control members of the board expire, the governor shall appoint two structural pest control members to the board for terms expiring on August 30, 1980, and shall appoint two structural pest control members to the board for terms expiring on August 30, 1981.

SECTION 12. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

## Amendment No. 2 - De Lay

Amend **S.B. 486**:

Section 2, Subsection (a), strike Lines 12, 13, 14, and the word "Act." on Line 15 page 2.

## Amendment No. 3 - De Lay

Amend **S.B. 486**:

Section 2, Subsection (f)(1), Line 15 is amended to read:

(1) be an executive officer, employee, or paid consultant of a trade association in the structural pest control industry;  
note: this amendment adds the word "executive" between "an" and "officer"

The amendments were read.

Senator Jones of Harris moved to concur in the House amendments.

The motion prevailed.

**HOUSE BILL 2096 ON SECOND READING**

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2096**, Relating to screening of children for visual handicaps.

The bill was read second time.

Senator Brooks offered the following committee amendment to the bill:

Amend House Bill 2096 as follows:

(1) Strike Section 8(a) on page 6 and substitute the following:

"(a) The Advisory Committee shall be composed of:

"(1) three physicians who are licensed to practice in Texas and whose medical specialty is ophthalmology;

"(2) two optometrists who are licensed to practice in Texas, one of whom is a member of the Texas Association of Optometrists and one of whom is a member of the Texas Optometric Association; and

"(3) one person to represent the public who has experience in and an interest in children's visual problems."

(2) Strike Section 8(c) on page 6 and substitute the following:

"(c) In making the initial appointments, the Board shall appoint six members whose terms shall be determined as follows:

"(1) one ophthalmologist and one optometrist for terms ending on August 31, 1981;

"(2) one ophthalmologist and one optometrist for terms ending on August 31, 1983; and

"(3) one ophthalmologist and one public member for terms ending on August 31, 1985."

(3) Add a Section 11 to read as follows:

"Sec. 11. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read



on three several days in each house be suspended, and this rule is hereby suspended."

The committee amendment was read and was adopted.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

#### **HOUSE BILL 2096 ON THIRD READING**

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 2096** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Creighton, Harris, Jones of Taylor.

The bill was read third time and was passed.

#### **HOUSE BILL 1917 ON SECOND READING**

On motion of Senator Traeger and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1917.** A bill to be entitled An Act relating to probate court authorization of donation of a kidney to prescribed persons by a mentally retarded person; and providing for hearing procedures and standards for said authorization.

The bill was read second time and was passed to third reading.

#### **HOUSE BILL 1917 ON THIRD READING**

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1917** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Moore, Ogg.

The bill was read third time and was passed.

#### **MOTION IN WRITING**

Senator Snelson offered the following Motion in Writing:

TO THE PRESIDENT OF THE SENATE:

The undersigned members of the Senate of the State of Texas in accordance with Article 4, Section 14 of the Texas Constitution respectfully move to override the veto of Governor Bill Clements assigned to House Bill 2153 on May 15, 1979.

The Texas House of Representatives as the originating House in the Legislature overrode the veto by a vote of 90-43 on May 15, 1979.

The Senate sponsor of House Bill 2153 is properly bound to present an override motion for consideration by the Senate and therefore we join in this motion.

/s/W. E. Snelson, Senate sponsor  
of House Bill 2153

BLAKE	MEIER
BRAECKLEIN	MOORE
BROOKS	PARKER
CLOWER	PATMAN
CREIGHTON	SANTIESTEBAN
DOGGETT	SCHWARTZ
FARABEE	SHORT
HOWARD	TRAEGER
JONES OF HARRIS	TRUAN
JONES OF TAYLOR	VALE
MAUZY	WILLIAMS
McKNIGHT	

The Motion in Writing was read and prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Howard, Jones of Harris, Jones of Taylor, Mauzy, McKnight, Meier, Moore, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Andujar, Harris, Kothmann, Longoria, Mengden, Ogg.

#### MEMORIAL RESOLUTIONS

**S.R. 582** - By Schwartz: Memorial resolution for Nettie Damiani Wythe.

**S.R. 583** - By Schwartz: Memorial resolution for Alton C. Pederson.

**S.R. 584** - By Schwartz: Memorial resolution for James C. Erdmann.

**S.R. 587** - By Truan: Memorial resolution for A. Phillip Randolph.

#### WELCOME AND CONGRATULATORY RESOLUTIONS

**S.R. 578** - By Mauzy: Extending welcome to students from the Erasmo Seguin Learning Center, Dallas.

**S.R. 579** - By Howard: Extending congratulations to Carolyn McCash.

**S.R. 580** - By Howard: Extending congratulations to Charles McCash.

**S.R. 581** - By Schwartz: Extending welcome to Karen Erickson.

**S.R. 585** - By Doggett: Proclaiming May 20, 1979, as Hondo Crouch Day in Luckenbach.

**S.R. 586** - By Doggett: Extending welcome to Jennifer Wingard.

**S.R. 588** - By Truan: Extending congratulations to Ruben Bonilla, Jr.

**S.R. 600** - By Andujar: Extending congratulations to Michael Broadbent, London, Great Britain.

**S.R. 601** - By Andujar: Extending congratulations to Hugh Johnson, Braintree, Essex, England.

**S.R. 602** - By Andujar: Extending congratulations to Cyril Ray, London, Great Britain.

**S.R. 603** - By Andujar: Extending congratulations to Baron Eric de Rothschild, Paris, France.

**S.R. 604** - By Andujar: Extending congratulations to Baron Elie de Rothschild, Paris, France.

#### ADJOURNMENT

On motion of Senator Moore the Senate at 12:25 o'clock p.m. adjourned until 9:30 o'clock a.m. tomorrow.

#### APPENDIX

Signed by Governor

(May 14, 1979)

**S.C.R. 71**

**H.C.R. 32**

**H.C.R. 75**

(May 15, 1979)

<b>H.B. 12</b>	Effective immediately
<b>H.B. 23</b>	Effective August 27, 1979
<b>H.B. 28</b>	Effective immediately
<b>H.B. 43</b>	Effective August 27, 1979
<b>H.B. 226</b>	Effective August 27, 1979
<b>H.B. 302</b>	Effective August 27, 1979
<b>H.B. 307</b>	Effective immediately
<b>H.B. 353</b>	Effective immediately
<b>H.B. 637</b>	Effective immediately
<b>H.B. 765</b>	Effective immediately
<b>H.B. 859</b>	Effective August 27, 1979
<b>H.B. 908</b>	Effective immediately
<b>H.B. 952</b>	Effective August 27, 1979
<b>H.B. 967</b>	Effective August 27, 1979
<b>H.B. 994</b>	Effective August 27, 1979
<b>H.B. 1004</b>	Effective immediately
<b>H.B. 1301</b>	Effective August 27, 1979
<b>H.B. 1414</b>	Effective immediately
<b>H.B. 1427</b>	Effective August 27, 1979
<b>H.B. 1436</b>	Effective September 1, 1979